In the Supreme Court
OF THE
United States

OCTOBER TERM, 1949

JOHN HOWARD LAWSON, *Petitioner,* vs. UNITED STATES OF AMERICA, *Respondent.*	No. 248
DALTON TRUMBO, *Petitioner,* vs. UNITED STATES OF AMERICA, *Respondent.*	No. 249

MOTION FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE.

The Motion of the National Union of Marine Cooks and Stewards for leave to file brief as *amicus curiae* in the above-entitled proceedings respectfully shows as follows:

(1) National Union of Marine Cooks and Stewards is a voluntary, unincorporated association and labor organization with its principal place of business situated in the City and County of San Francisco, State of California.

(2) It seeks to file a brief as *amicus curiae* in the above proceedings because it feels very strongly that the decisions of the Courts below are such a gross violation of constitutional rights of the petitioners as to imperil the civil liberties of all the people of the United States and are a direct threat to the continued free existence of applicant, an organization whose effectiveness in defending the rights of workers depends on untrammeled freedom of opinion, belief and association. These cases present a challenge which applicant feels it cannot ignore.

WHEREFORE, applicant prays leave to file a brief as *amicus curiae* in the above proceedings in support of petitioners therein.

Dated, San Francisco, California,
September 7, 1949.

HAROLD M. SAWYER,
Attorney for National Union of Marine Cooks and Stewards as Amicus Curiae.

GLADSTEIN, ANDERSEN, RESNER & SAWYER,
Of Counsel.

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THE BRIEF OF NATIONAL UNION OF MARINE COOKS AND STEWARDS AS AMICUS CURIAE.

To the Honorable Fred M. Vinson, Chief Justice of the United States, and to the Honorable Associate Justices of the Supreme Court of the United States:

WHO THE AMICUS CURIAE IS.

This brief is submitted by the National Union of Marine Cooks and Stewards, a labor union which

under its present and former name has been in existence 48 years. Its membership is composed of 6000 marine cooks and stewards who man the stewards' department on freight and passenger vessels sailing from the west coast in both offshore and coastwise service. The union is affiliated with the Congress of Industrial Organizations.

The purpose of the organization is in general the amelioration along political, economic and social lines of the lives of its membership. Forty-five percent of its members belong to the Negro and other minority races.

The Union is an American patriotic organization and as such is essential to the perpetuation of a self-governing democracy in the United States.

WHY THE BRIEF IS SUBMITTED.

The union regards the instant cases as glaring examples of a nationwide effort of the great industrial and financial monopolists of this country to strike down the Bill of Rights and render the great mass of the people powerless to resist or protest the destruction of their democratic rights and liberties. The ultimate purpose of this conspiracy is to control the economy of the United States in the interests of a few at the expense of the many, to swell profits and to beat down wages. However, this objective cannot be reached unless all protest has been effectually silenced.

These cases are considered by the union as part of a well-defined plan to suppress all protest and in this

plan puppet legislators, venal executives and some complaisant courts all play their parts. The immedidate objective of the conspiracy is to indentify as Communist or Communistic any person or organization who or which dares to assert independence in thought. Any criticism of this policy or its execution is to be branded as Communist or subversive and the word "Communist" is to be given such a repugnant connotation that all criticism shall be effectually stifled lest the critic be named a Communist. Communism therefore becomes a label which can be sewed on any progressive or liberal person or movement in the confident expectation that social or economic ostracism will be punishment for daring to differ with or oppose the real traitors to America who are part of the conspiracy to stifle protest by intimidation.

Because the trade union movement is the strongest bulwark of Democracy and because this conspiracy has for its primary objective the weakening and eventual destruction of all labor organizations and because these cases unless reversed will become a potent weapon for the accomplishment of the conspiracy, the union is impelled to file this brief.

THE IMPACT OF THE CURRENT DRIVE ON LABOR UNIONS.

It cannot be denied that since the death of Roosevelt there has been a nationwide attack upon all forms of labor organization. This finds expression in restrictive legislation in the several states and notably in the enactment by Congress of the Taft-Hartley Act.

Every effort is being made to deprive unions of militant leaders and ultimately destroy labor organization completely, thus enabling monopoly interests to eliminate collective bargaining, set wages and working conditions at will with lower wages, speed-up and general depression of the living standards of labor.

THE LIBERTIES OF ALL THE PEOPLE ARE IMPERILED BY THE DECISIONS OF THE COURTS BELOW.

We shall not attempt to comment on the many prejudicial errors disclosed by the record in the instant cases, but shall limit the discussion to the civil liberties issues involved.

When the Constitution of the United States was presented to the people by the Constitutional Convention it contained no Bill of Rights. Many of the delegates were as fearful of democracy then as the Parnell Thomases, Mundts and Nixons now are. It took a determined fight by an aroused and suspicious electorate to compel the adoption of the first ten Amendments to the Constitution as the price of ratification.

If the instant cases are not reversed and the indictments dismissed, these ten Amendments will become a dead letter and the purposes of the reactionaries of the Constitutional Convention will finally have been accomplished.

During the many decades that have elapsed since the Constitutional Convention adjourned, there has

been an incessant struggle by reactionary elements to whittle down and emasculate the Bill of Rights. The battle has been fought largely in the area of the First Amendment, which is the great cornerstone of all liberties in the United States. Freedom of religion, of thought and opinion, freedom of the press, the right of free association and assemblage, these are the constitutional liberties, the civil rights which are denied by the decisions of the courts below.

The new technique of the Congressional Committee, established with the approval of the courts below, threatens the right of the people of the United States to think for themselves and establishes governmental thought control—the very thing the founders of our country fled from in England and elsewhere when they came to America.

From the standpoint of the union, a most dangerous precedent has been created by the courts below. All that is necessary is to subpoena a militant trade unionist, for example the leader of a strike for better wages and working conditions before any legislative committee, develop perhaps his resentment over strike-breaking by governmental activity, perhaps his opposition to the Marshall Plan or the North Atlantic Pact, characterize these ideas as subversive and you have immediately branded him as a traitor and the strike as treason. Such a technique spells the ultimate destruction of the trade union movement. And because this union and its officers have been and are the victims of political persecution such as has been

visited upon the petitioners herein, the union feels that unless the decisions of the courts below are reversed its very existence is in jeopardy.

Just as Hitler found it necessary utterly to destroy all forms of liberal organization in Germany before he could enslave the German people and bind them to his will, so the monopolists in America realize that they cannot carry out their plans for untrammeled control of the economy of the United States and of the people until they have first destroyed the trade unions.

The trade unions have ever been in the forefront of the battle for the preservation and extension of democracy and with their destruction the democratic rights and liberties of all the people will be at an end.

Once freedom of thought and association are invaded, there is no end to the process. Today, Communists are the target not because any sane person in the United States really thinks that the Communists can, or think they can, or even seek to overthrow the Government by force or violence, but because once all protest and criticism, all striving for a better and more abundant life can be characterized as subversive, protest is silenced by the fear of consequences.

But tomorrow it may be that protest may come from some other source, as it has in times past, from church groups, from women's organizations, youth groups and the like, and just as the civil liberties of

any group or individual have been violated, the civil liberties of all are jeopardized.

THE PETITIONERS HAVE BEEN PERSECUTED NOT FOR CONDUCT BUT FOR THEIR THOUGHTS AND OPINIONS.

John Howard Lawson and Dalton Trumbo have committed no crime and yet they have already been punished more severely than most criminals. Because they resolutely and courageously insisted on their constitutional right to be let alone, they have been blacklisted in a tightly knit industry and deprived of their power to earn a living, and unless these cases are reversed, will be sent to prison—and all because they dared to challenge the right of a rump congressional committee to question their economic, social and political beliefs and opinions. This is the precise area, the area of opinion and belief, that is protected by the First Amendment.

As Mr. Justice Jackson, speaking for this Court said in *W. Va. State Board of Education v. Barnette* (309 U.S. 624 at 642) "No official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion or other matters of opinion or force citizens to confess by word or act their faith therein." Yet notwithstanding this prohibition of the highest Court in the land, the members of the sub-committee in congress dared to force Lawson and Trumbo to confess their faith or lose their livelihood and run the risk of imprisonment. This new technique of the

committee, supported by the decisions of the Courts below, gives new life to the hated blacklist against which this union and every other labor organization worthy of the name has waged a determined fight for many years.

CONCLUSION.

The union endorses every word in the Petitions for Certiorari filed herein by John Howard Lawson and Dalton Trumbo, but because of the peculiar and special impact of the decisions of the Court below upon its members and officers in their day to day struggles for better conditions for all the people of the United States, it has deemed it a matter of vital importance to advise this Court of the disastrous effects of the decisions of the Courts below upon the very life of the union.

Trade unions do not represent a selfish class interest and they have always been in the forefront of the historic struggle to defend the civil rights and democratic institutions of all the people. They are important socially, economically and politically and their wage constitutes the mass buying power that supports the whole economy of the United States. They are entitled to be heard not only on their own behalf but on behalf of all the people of the United States.

This union, therefore, earnestly urges the Court to grant the Petitions for Certiorari herein, to take jurisdiction of the case and to reverse the decisions

of the Courts below and dismiss the indictment of the petitioners.

Dated, San Francisco, California,
September 7, 1949.

Respectfully submitted,
HAROLD M. SAWYER,
Attorney for National Union of Marine Cooks and Stewards as Amicus Curiae.

GLADSTEIN, ANDERSEN, RESNER & SAWYER,
Of Counsel.